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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/816,132	03/26/2001	Atsushi Yoshida	1095.1177	5890

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EXAMINER	
PHAN, TAM T	

ART UNIT	PAPER NUMBER
2144	

DATE MAILED: 08/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/816,132	YOSHIDA ET AL.	
	Examiner	Art Unit	
	Tam (Jenny) Phan	2144	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06/20/2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3,14-16,18-23,34 and 35* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,14-16,18-23,34 and 35* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *26 March 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Amendment received on 06/20/2005 has been entered. Claims 1, 14, and 18 are currently amended. Claims 4-13, 17, and 24-33 are cancelled. Claims 34 and 35 are newly added.

2. Claims 1-3 and 14-16, 18-23, and 34-35 are presented for examination.

Priority

3. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

4. The effective filing date for the subject matter defined in the pending claims which has support in parent JP 2000-329952 in this application is 10/30/2000. Any new subject mater defined in the claims not previously disclosed in parent JP 2000-329952, is entitled to the effective filing date of 03/26/2001.

5. Should applicant desire to obtain the benefit of foreign priority under 35 U.S.C. 119(a)-(d) prior to declaration of an interference, a translation of the foreign application should be submitted under 37 CFR 1.55 in reply to this action.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1, 14, 18, and 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nepustil (U.S. Patent Number 6,240,454) in view of Motoyama et al. (U.S. Patent Number 6,581,092), hereinafter referred to as Motoyama.

8. Regarding claim 1, Nepustil disclosed a service execution method comprising: receiving a service request from a user (Abstract, column 2 lines 20-46); obtaining load information of a server device corresponding to the service request from a device for managing the load information of the server device (Figures 3-5, column 4 lines 17-32); and requesting another server device to process the service request if it is judged that a load on the server device included in the load information is higher than a predetermined value (Figures 3-5, column 2 lines 20-46, column 4 lines 33-59, column 5 lines 14-24).

9. Nepustil taught the invention substantially as claimed. However, Nepustil did not expressly teach requesting another server device to process the service request *by sending electronic mail to the user*, if it is judged that a load on the server device included in the load information is higher than a predetermined value.

10. Nepustil suggested exploration of art and/or provided a reason to modify the service execution method with additional features (column 5 lines 47-65).

11. Motoyama disclosed a monitoring method wherein an electronic mail is sent to users when the network resource is reaching the predetermined limit to allow users to take appropriate actions (Figures 33-34, column 3 lines 14-37, column 23 lines 19-26, column 24 lines 38-57).

12. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Nepustil with the teachings of Motoyama to include sending electronic mail to users if it is judged that a load on the server device included in the load information is higher than a predetermined value in order to inform users their usage of a particular network resource and allow users to take appropriate actions (Motoyama, column 3 lines 23-28).

13. Regarding claim 14, Nepustil and Motoyama combined disclose a service execution method comprising: making a service request to a service supplier by using a client device (Nepustil, Abstract, column 2 lines 20-46); and acquiring load information of a server device corresponding to the service request from a device by means the service supplier manages the load information of the server device, and if it is judged that a load on the server device included in the load information is higher than a predetermined value (Nepustil, Figures 3-5, column 2 lines 20-46, column 4 lines 17-59, column 5 lines 14-24), receiving by electronic mail at the client device a result of processing by another server device (Motoyama, Figures 33-34, column 3 lines 14-37, column 23 lines 19-26, column 24 lines 38-57).

14. Regarding claim 18, Nepustil and Motoyama combined disclose a service execution apparatus comprising: means for receiving a service request from a user (Nepustil, Abstract, column 2 lines 20-46); means for obtaining load information of a server device for processing the service request (Nepustil, Figures 3-5, column 4 lines 17-32); means for determining whether or not a load on the server device included in the load information is higher than a predetermined value (Nepustil, Figures 3-5, column

4 lines 33-59, column 5 lines 14-24); and means for requesting another server device to process the service request by sending electronic mail to the user, if it is judged that the load on the server device is higher than the predetermined value (Nepustil, Figures 3-5, column 2 lines 20-46, column 4 lines 33-59, column 5 lines 14-24; Motoyama, Figures 33-34, column 3 lines 14-37, column 23 lines 19-26, column 24 lines 38-57).

15. Regarding claim 34, Nepustil and Motoyama combined disclose a service execution apparatus connected via a computer network to user devices and at least one information provider, comprising: an input-output management device receiving capacity requests from the user devices over the computer network (Nepustil, Figures 3-5, column 4 lines 33-59, column 5 lines 14-24); a server device obtaining capacity information of the at least one information provider to process the capacity requests, processing the capacity requests and sending a result of the processing of the capacity requests by electronic mail to the user devices (Nepustil, Figures 3-5, column 2 lines 20-46, column 4 lines 33-59, column 5 lines 14-24; Motoyama, Abstract, Figures 33-34, column 3 lines 14-37, column 24 lines 38-57).

16. Regarding claim 35, Motoyama disclosed a service execution apparatus, wherein said server device automatically sends an electronic mail process wait notice to each affected user device upon determination that the at least one information provider has a capacity to process the capacity requests smaller than a pre-selected value (Abstract, Figures 33-34, column 3 lines 14-37, column 24 lines 38-57).

17. Since all the limitations of the claimed invention were disclosed by the combination of Nepustil and Motoyama, claims 1, 14, 18, and 34-35 are rejected.

18. Claims 2-3, 15-16, and 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nepustil (U.S. Patent Number 6,240,454) in view of Motoyama et al. (U.S. Patent Number 6,581,092), hereinafter referred to as Motoyama, and further in view of Kraft et al. (U.S. Patent Number 6,832,239), hereinafter referred to as Kraft.

19. Regarding claim 2, Nepustil disclosed a service execution method comprising: receiving a service request from a user (Abstract, column 2 lines 20-46); obtaining load information of a server device corresponding to the service request from a device for managing the load information of the server device (Figures 3-5, column 4 lines 17-32); and requesting another server device to process the service request if it is judged that a load on the server device included in the load information is higher than a predetermined value (Figures 3-5, column 2 lines 20-46, column 4 lines 33-59, column 5 lines 14-24). Motoyama disclosed a monitoring method wherein an electronic mail is sent to users when the network resource is reaching the predetermined limit to allow users to take appropriate actions (Figures 33-34, column 3 lines 14-37, column 23 lines 19-26, column 24 lines 38-57). Nepustil further disclosed obtaining load information of the other server device from a device for managing the load information of the other server device (Figures 3-5, column 4 lines 33-49, column 5 lines 14-24).

20. The combination of Nepustil and Motoyama taught the invention substantially as claimed. However, the combination of Nepustil and Motoyama did not expressly teach a service execution method having a step of sending a process delay notification to the

user if it is judged that a load on the other server device is higher than the predetermined value.

21. Nepustil suggested exploration of art and/or provided a reason to modify the service execution method with additional features (column 5 line 47-column 6 line 3).

22. Kraft disclosed a service execution method having a step of sending a process delay notification to the user if it is judged that a load on the other server device is higher than the predetermined value (Figure 3C, column 6 lines 39-55, column 7 lines 17-24).

23. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combined method of Nepustil and Motoyama with the teachings of Kraft to include the notification feature in order to inform the client user of the delay process (column 7 lines 27-30) since when the client user does not have positive information regarding the server status, they might infer the delay in performing the download was at fault due to some computer or communication resource (column 2 lines 2-6). Slow service request and the lack of information for the client user might lead to increase client user anxiety, and dissatisfaction with the Internet experience (column 2 lines 6-9).

24. Regarding claim 3, Kraft disclosed a service execution method further comprising: adding the service request with respect to which the process delay notification is sent, to an end of a queue for holding service requests with respect to which the process delay notification is sent; and processing a service request at head of the queue by the server device if it is judged that the load information of the server

device obtained from the device for managing the load information is lower than the predetermined value (Figure 3C, column 6 lines 39-55, column 7 lines 17-24, column 7 lines 50-column 8 lines 13).

25. Regarding claim 15, Nepustil and Kraft disclosed a service execution method further comprising: acquiring load information of the other server device from a device by means of which the service supplier manages the load information of the other server device (Nepustil, Figures 3-5, column 4 lines 33-49, column 5 lines 14-24), and if it is judged that a load on the other server device is higher than the predetermined value, receiving a process delay notification by means of the client device (Kraft, Figure 3C, column 6 lines 39-55, column 7 lines 17-24).

26. Regarding claim 16, Kraft disclosed a service execution method further comprising: adding the service request with respect to which the process delay notification is sent, to an end of a queue for holding service requests with respect to which the process delay notification is sent, and if it is judged that the load information of the server device obtained from the device for managing the load information is lower than the predetermined value, receiving by means of the client device a result of processing of a service request at head of the queue by the server device (Figure 3C, column 6 lines 39-55, column 7 lines 17-24, column 7 lines 50-column 8 lines 13).

27. Regarding claim 19, Nepustil disclosed a service execution apparatus further comprising: means for obtaining load information of the other server device; and means for determining whether or not a load on the other server device included in the load

information of the other server device is higher than the predetermined value (Figures 3-5, column 4 lines 33-49, column 5 lines 14-24).

28. Regarding claim 20, Kraft disclosed a service execution apparatus further comprising: means for sending a process delay notification to the user if it is judged that the loads on both the server device and the other server device are higher than the predetermined value (Figure 3C, column 6 lines 39-55, column 7 lines 17-24).

29. Regarding claim 21, Kraft disclosed a service execution apparatus further comprising: a queue for holding service requests with respect to which the process delay notification is sent, and queue creating means for adding to the queue the service request with respect to which the process delay notification is sent (Figure 3C, column 6 lines 39-55, column 7 lines 17-24, column 7 lines 50-column 8 lines 13).

30. Regarding claim 22, Nepustil disclosed a service execution apparatus wherein the server device and the other server device include respective content storage devices for storing content corresponding to the service request from the user, said content storage devices including means for holding identical content synchronized with each other (column 1 line 60-column 2 line 4, column 3 lines 29-39, lines 40-49).

31. Regarding claim 23, Nepustil disclosed a service execution apparatus wherein the content is synchronized by transmitting/receiving a difference in updated content (column 1 line 60-column 2 line 4, column 3 lines 29-39, lines 40-49).

32. Since all the limitations of the claimed invention were disclosed by the combination of Nepustil, Motoyama, and Kraft, claims 2-3, 15-16, and 19-23 are rejected.

33. Claims 1, 14, 18, and 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zisapel et al. (U.S. Patent Number 6,665,702), hereinafter referred to as Zisapel, in view of Garg et al. (U.S. Patent Number 6,327,677), hereinafter referred to as Garg.

34. Regarding claim 1, Zisapel disclosed a service execution method comprising: receiving a service request from a user (column 3 lines 28-47); obtaining load information of a server device corresponding to the service request from a device for managing the load information of the server device (column 3 lines 10-15, column 13 lines 2-18, column 19 line 56-column 20 line 4); and requesting another server device to process the service request if it is judged that a load on the server device included in the load information is higher than a predetermined value (column 3 lines 10-15, column 6 lines 5-11, column 7 lines 18-25, column 17 lines 6-17, column 19 line 56-column 20 line 4).

35. Zisapel taught the invention substantially as claimed. However, Zisapel did not expressly teach requesting another server device to process the service request *by sending electronic mail to the user*, if it is judged that a load on the server device included in the load information is higher than a predetermined value.

36. Zisapel suggested exploration of art and/or provided a reason to modify the service execution method with additional features such as sending message to the user when overload occurs (column 7 lines 1-25, column 8 lines 57-60, column 19 lines 22-32).

37. Garg disclosed a monitoring method wherein an electronic email is sent to the network administrator or other recipients when network utilization exceeds a predetermined threshold (column 1 lines 51-62, column 15 lines 13-34, column 15 lines 52-column 16 lines 3).

38. It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the service execution method of Zisapel with the teachings of Garg to include sending electronic mail to users if it is judged that a load on the server device included in the load information is higher than a predetermined value in order to notify network administrator or other recipients so they might take appropriate actions (Garg, column 15 line 61-column 16 line 3).

39. Regarding claim 14, Zisapel disclosed a service execution method comprising: making a service request to a service supplier by using a client device (column 3 lines 28-47); and acquiring load information of a server device corresponding to the service request from a device by means of which the service supplier manages the load information of the server device, and if it is judged that a load on the server device included in the load information is higher than a predetermined value, receiving by electronic mail at the client device a result of processing by another server device (Zisapel, column 3 lines 10-15, column 6 lines 5-11, column 7 lines 18-25, column 17 lines 6-17, column 19 line 56-column 20 line 4; Garg, column 15 lines 13-34, column 15 line 52-column 16 line 3).

40. Regarding claim 18, Zisapel and Garg combined disclose a service execution apparatus comprising: means for receiving a service request from a user (Zisapel,

column 3 lines 28-47); means for obtaining load information of a server device for processing the service request; means for determining whether or not a load on the server device included in the load information is higher than a predetermined value (Zisapel, column 3 lines 10-15, column 13 lines 2-18, column 19 line 56-column 20 line 4); and means for requesting another server device to process the service request by sending electronic mail to the user (Garg, column 15 lines 13-34, column 15 line 52-column 16 line 3) if it is judged that the load on the server device is higher than the predetermined value (Zisapel, column 3 lines 10-15, column 6 lines 5-11, column 7 lines 18-25, column 17 lines 6-17, column 19 line 56-column 20 line 4).

41. Regarding claim 34, Zisapel and Garg combined disclose a service execution apparatus connected via a computer network to user devices and at least one information provider (Zisapel, column 3 lines 28-47), comprising: an input-output management device receiving capacity requests from the user devices over the computer network (Zisapel, column 3 lines 10-15, column 13 lines 2-18, column 19 line 56-column 20 line 4); a server device obtaining capacity information of the at least one information provider to process the capacity requests, processing the capacity requests and sending a result of the processing of the capacity requests by electronic mail to the user devices (Zisapel, column 6 lines 5-11, column 7 lines 18-25, column 17 lines 6-17; Garg, column 1 lines 51-62, column 6 lines 3-23, column 7 lines 21-30, column 15 lines 13-34).

42. Regarding claim 35, Garg disclosed a service execution apparatus, wherein said server device automatically sends an electronic mail process wait notice to each

affected user device upon determination that the at least one information provider has a capacity to process the capacity requests smaller than a pre-selected value (column 1 lines 51-62, column 6 lines 3-23, column 7 lines 21-30).

43. Since all the limitations of the claimed invention were disclosed by the combination of Zisapel and Garg, claims 1, 14, 18, and 34-35 are rejected.

Conclusion

44. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

45. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to the enclosed PTO-892 for details.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam (Jenny) Phan whose telephone number is (571) 272-3930. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MARC D. THOMPSON
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PRIMARY EXAMINER

Tam T. Phan
August 9, 2005
tp